



General Services Administration
Office of General Counsel
Washington, DC 20405

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

November 20, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Subject: Price Cap Performance Review for Local
Exchange Carriers; Treatment of Video
Dialtone Services Under Price Cap Regulation,
CC Docket No. 94-1.

Dear Mr. Caton:

Enclosed please find the original and nine copies of the General Services Administration's Reply Comments for filing in the above-referenced proceeding. Copies of these filing have been served on all interested parties.

Sincerely,

Jody B. Burton
Assistant General Counsel
Personal Property Division

Enclosures

cc: International Transcription Service, Inc.
Ms. Janice Myles, Policy and Program Planning Division

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
COMMUNICATIONS DIVISION

In the Matter of)
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)

Price Cap Performance Review)
for Local Exchange Carriers;)
Treatment of Video Dialtone Services)
Under Price Cap Regulation)
)

CC Docket No. 94-1

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**REPLY COMMENTS OF THE
GENERAL SERVICES ADMINISTRATION**

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November 20, 1995

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)

Price Cap Performance Review)
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Under Price Cap Regulation)

CC Docket No. 94-1

**REPLY COMMENTS OF THE
GENERAL SERVICES ADMINISTRATION**

The General Services Administration ("GSA"), on behalf of the Federal Executive Agencies, submits these Reply Comments in response to the Commission's Second Report and Order ("Order") and Third Further Notice of Proposed Rulemaking ("NPRM"), FCC 95-394, released September 21, 1995. In this NPRM, the Commission requested comments and replies on its proposed treatment of video dialtone under price cap regulation.

I. INTRODUCTION

On October 27, 1995, GSA submitted Comments in this proceeding urging the Commission to allocate all video dialtone costs to the video dialtone price cap basket according to its existing Part 36 rules; modify its ARMIS 43-01 Report format to separately identify these costs; and exclude these costs from both the sharing and low end adjustment calculations.¹

¹ Comments of GSA, p. 9.

Comments on the Commission's proposals were also filed by:

- Eight local exchange carriers (LECs);
- Two interexchange carriers ("IXCs"); and
- The National Cable Television Association, Inc. ("NCTA"), the California Cable Television Association ("CCTA"), and two cable television operators.

In these Reply Comments, GSA responds to the comments and proposals of these parties.

**II. THE ALLOCATION OF COSTS TO VIDEO DIALTONE
SHOULD BE BASED UPON PART 36 ALLOCATIONS.**

The Commission invited comments "on a method or factor to be used in Part 69 for allocating video dialtone costs to the video dialtone basket."² In its Comments, GSA explained that no such method or factor is necessary because the cable and wire facility ("C&WF") costs allocable to video dialtone will already be isolated according to the Part 36 jurisdictional separations procedures.³ GSA noted that the Part 69 rules need only to be modified to specify the allocation of other costs in proportion to C&WF costs.⁴

² NPRM, para. 41.

³ Comments of GSA, p. 6.

⁴ Id.

There is widespread support for GSA's position.⁵ The Southwestern Bell Telephone Company ("SWBT") states:

[T]he simplest approach would be to directly assign to the VDT basket the interstate VDT cost determined by the use of existing Part 32 and Part 36 rules. Specifically, current Part 32 rules will identify the dedicated VDT costs while current Part 36 rules will identify the appropriate allocation of joint VDT/telephony costs as well as VDT "overhead" allocations. When combined, the resulting data captures the total amount of regulated interstate VDT costs that may be directly assigned to the rate elements to be established pursuant to the Part 69 waivers required by the Commission.⁶

Bell Atlantic agrees, and notes that only minor changes are needed to the Commission's Part 69 rules to accommodate the video dialtone category.⁷

As U S West Communications, Inc. ("U S West") notes, however, the use of existing procedures "in no way implies that the video dialtone cost allocation issues associated with the joint and common investments have been resolved."⁸ As GSA explained in its Comments, under existing procedures, the proper assignment of C&WF investment under Part 36 to Category 1 for telephony and Category 2 for video dialtone remains the critical step in cost allocation.⁹

⁵ See, e.g., Comments of AT&T Corp. ("AT&T"), pp. 7-9; The Southern New England Telephone Company ("SNET"), pp. 3-4; Comcast Cable Communications, Inc. and Cox Enterprises, Inc. ("Comcast/Cox"), pp. 3-6.

⁶ Comments of SWBT, p. 11 (footnote deleted).

⁷ Comments of Bell Atlantic, pp. 3-4.

⁸ Comments of U S West, p. 3.

⁹ Comments of GSA, pp. 6-7.

Comcast/Cox notes that the Commission has yet to specify how this assignment should be made.¹⁰ Comcast/Cox states:

This failure to prescribe procedures for allocating costs between Category 1 and Category 2 has left this decision entirely to the discretion of individual LECs, who have a tremendous incentive to allocate C&WF costs to Category 1 because 75 percent of those costs are assigned to the intrastate jurisdiction. 47 C.F.R. §36.154(c). To limit this potential for misallocation of costs, the Commission must prescribe how costs are allocated between Category 1 and Category 2 cable and wire facilities.¹¹

MCI Telecommunications Corp. ("MCI") suggests that this allocation could be by means of a 50 percent allocation factor.¹² MCI states:

In the context of loop investment, which is likely to be the largest joint and common cost, a 50 percent allocator can be justified under the theory that the loop facility is now supporting two loops -- a telephone loop and a broadband loop. Each splits the cost.¹³

* * *

Even this allocator may assign too much cost to telephony, if, as seems likely, the loop is used more for video services than for voice. In addition, the video services will use a much greater portion of the bandwidth of the loop.¹⁴

MCI's suggestion has merit and should be seriously considered by the Commission as a resolution to the cost allocation problem.

¹⁰ Comments of Comcast/Cox, p. 6.

¹¹ Id.

¹² Comments of MCI, p. 7.

¹³ Id., pp. 7-8 (footnote deleted).

¹⁴ Id., n. 5.

III. ALL COSTS IN THE VIDEO DIALTONE BASKET SHOULD BE EXCLUDED FROM PRICE CAP SHARING AND LOW END ADJUSTMENT CALCULATIONS.

The Commission's Order allows video dialtone revenues and costs to be included in price cap sharing and low end adjustment calculations until they reach a *de minimis* threshold.¹⁵ The NPRM suggests that this threshold could be based upon the amount of dedicated video dialtone investment that would reduce the overall LEC rate of return by a specified amount.¹⁶

In its Comments, GSA found this proposal to be totally inappropriate.¹⁷ First of all, GSA pointed out that video dialtone systems require very little dedicated investment and a great deal of shared investment.¹⁸ Many commenting parties agreed with GSA's conclusion that a threshold based upon only dedicated plant would be insensitive to the vast majority of LEC video dialtone costs.¹⁹ CCTA states:

Thus, a threshold keyed to dedicated video dialtone investment could permit the LECs to spend millions of dollars in direct video investment in multiple years and still potentially avoid triggering the threshold. Indeed, there is a real possibility that some LECs showing low dedicated video dialtone investment amounts and high shared costs could construct most or all of their networks without segregating their video dialtone costs if the proposed *de minimis* threshold

¹⁵ Order, para. 35.

¹⁶ NPRM, para. 40.

¹⁷ Comments of GSA, p. 5.

¹⁸ Id.

¹⁹ See, e.g., Comments of AT&T, p. 4; NCTA, p.8; Comcast/Cox, pp. 7-8.

is adopted.²⁰

Under no circumstances should the Commission base a threshold determination upon dedicated plant alone.

Of even greater importance, however, is the question of whether a *de minimis* threshold should be established at all. In its Comments, GSA argued that the establishment of a separate price cap basket for video dialtone would only be fully effective if all video dialtone costs were assigned to it.²¹ Indeed, two Petitions for Reconsideration of this aspect of the Commission's Order have already been filed.²² MCI summarizes its opposition to the Commission's *de minimis* proposal as follows:

The proposal is inconsistent with existing Commission cost allocation systems, requires costly and cumbersome auditing procedures to enforce, and is likely to permit video dialtone carriers to cross subsidize their video dialtone offerings with revenue from other common carrier services. Based on MCI's review of the Video Dialtone Section 214 applications, there is no video dialtone system authorized today that MCI would consider *de minimis*.²³

Comcast/Cox also emphasizes that *de minimis* is in the eye of the beholder:

Moreover, any characterization of LEC video dialtone investment as *de minimis* is misleading. Even if a LEC's video dialtone costs are small in proportion to its telephony costs and the effect of cross-subsidization on individual telephone ratepayers is minimal, the effect on a cable operator forced to compete with a subsidized video dialtone facility would be

²⁰ Comments of CCTA, pp. 8-9.

²¹ Comments of GSA, p. 3.

²² Petition for Reconsideration, MCI, November 6, 1995; Petition for Reconsideration, Cox Enterprises, Inc., November 6, 1995.

²³ Comments of MCI, p. 1.

substantial. Because the Commission readily can identify from the required reports the costs incurred by a LEC for video dialtone, there is no sound reason not to require these costs to be separated from telephone costs as they are incurred.²⁴

Now that the Commission has established a separate price cap basket for video dialtone, it should add a column to the ARMIS 43-01 Quarterly Report to reflect video dialtone revenues and costs. All LEC sharing and low end adjustment calculations should exclude all of the data in this column.²⁵

As a large user of telecommunications service, GSA is concerned that it will be forced to subsidize LEC implementation of video dialtone services. Indeed, the Commission has stated its intent to "ensure that telephone ratepayers do not have to bear the costs of video dialtone."²⁶ GSA urges the Commission to protect telephone ratepayers by ruling that all costs in the video dialtone basket will be excluded from the price cap sharing and low end adjustment calculations.

²⁴ Comments of Comcast/Cox, p. 7.

²⁵ Since ARMIS report data are rounded to the nearest \$1000, amounts below \$500 would not be reflected.

²⁶ Telephone Company - Cable Television Cross-Ownership Rules, Section 63.54-63.58, CC Docket No. 87-266, Memorandum Opinion and Order on Reconsideration and Third Further Notice of Proposed Rulemaking, FCC 94-269, released November 7, 1994, para. 2.

IV. CONCLUSION

As the agency vested with the responsibility for acquiring telecommunications services on a competitive basis for use of the Federal Executive Agencies, GSA urges the Commission to allocate all video dialtone costs to the video dialtone price cap basket according to its existing Part 36 rules; to modify its ARMIS 43-01 Report format to separately identify these costs; and to exclude these costs from both the sharing and low end adjustment calculations.

Respectfully submitted,

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November 20, 1995

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A handwritten signature in cursive script, appearing to read "Gail L. Polivy", is written over a horizontal line.